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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,668	02/08/2002	Heinrich Englert	P6608.0US	4591
30008	7590	10/26/2007		
GUDRUN E. HUCKETT DRAUDT SCHUBERTSTR. 15A WUPPERTAL, 42289 GERMANY			EXAMINER PETERSON, KENNETH E	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 10/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/073,668

Applicant(s)

ENGLERT ET AL.

Examiner

Kenneth E. Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5, 6 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 28, 30 and 32-34 is/are rejected.
- 7) ☒ Claim(s) 29 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Applicant's election without traverse of species A in the reply filed on 05 October 07 is acknowledged.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5,28,30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Englert (DE 3927230), who shows a jointing method having all of the recited steps including;

Rotating the tool,

Radially advancing the stone (13),

Longitudinally stroking the stone by cylinder 24.

As seen in figure 1, the stroke length must be shorter than the length of the cutting edge.

In regards to claims 5, the outer jointing stones move past the ends of the cutting edge (as per applicant's remarks, and thus the rearward end of each outer jointing stone projects past the cutting edge at the end of a relative stroke.

In regards to claim 28, the stroke length is multiple times (about 2) shorter than the blade edge, as seen in figure 1.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloan (1,531,350) in view of Ruscitti, who shows a jointing method with most of the recited limitations including radially advancing a jointing tool (27) by pivoting it about an axle (19), and axially reciprocating the jointing tool by a stroke length that is shorter than the length of the jointing tool (lines 53-54, 1st column on page 2).

Sloan is silent in regards to what his jointing tool is made out of. Examiner takes Official Notice that it is well known for sharpening tools such as this to be made of stone. An example of this is the patent to Ruscitti (2,574,499), who uses a stone (40) to sharpen and joint a saw blade. It would have been obvious to one of ordinary skill in the art to have made Sloan's jointing tool out of stone, as is well known and taught by Ruscitti, since stone is a well known sharpening material.

6. Made of record but not relied on are numerous patents showing pertinent jointers.

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7. Claims 29 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant has overcome the objections and rejections under 35 USC 112.

Applicant's arguments with respect to claims 5,28,30 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 32-34 have been fully considered but they are not persuasive. Applicant argues that the Sloan reference has "nothing in common with the claimed invention". While it is true that Sloan and Applicant's device are somewhat different, Applicant has written the claims so broadly that Sloan still reads thereon. Just like in Applicant's art, the saw sharpening art uses the term "jointing" to refer to the sharpening of the blade tips as a tool passes by. For further education on this, Applicant is invited to peruse class 76, subclass 48, entitled "dressing or jointing of circular saws". Since there are significant difference between the inventions, this rejection is easy to overcome, as seen in the claims it is not applied against.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

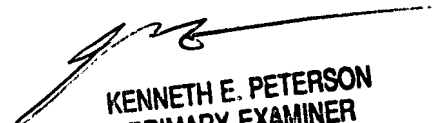
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth E. Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Mon-Thur, 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kp



KENNETH E. PETERSON
PRIMARY EXAMINER